

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
AT&T Wireless Services, Inc.	)	File No. EB-02-TS-002
	)	NAL/Acct. No. 200232100003
	)	FRN 0003-7665-32

**ORDER**

**Adopted: June 12, 2002**

**Released: June 18, 2002**

By the Commission:

1. In this Order, we adopt a Consent Decree terminating an investigation into possible violations by AT&T Wireless Services, Inc. ("AT&T Wireless") of the enhanced 911 ("E911") Phase II provisions of Section 20.18 of the Commission's Rules ("Rules") with respect to its Time Division Multiple Access network.<sup>1</sup>

2. The Commission and AT&T Wireless have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, we conclude that no substantial or material questions of fact exist as to whether AT&T Wireless possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest would be served by approving the Consent Decree and terminating the investigation into possible violations by AT&T Wireless of the E911 Phase II provisions of Section 20.18 of the Rules.

5. Accordingly, **IT IS ORDERED**, pursuant to Sections 4(i), 4(j) and 503(b) of the Communications Act of 1934, as amended,<sup>2</sup> that the attached Consent Decree **IS ADOPTED**.

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<sup>1</sup> 47 C.F.R. § 20.18.

<sup>2</sup> 47 U.S.C. §§ 154(i), 154(j) and 503(b).

6. AT&T Wireless shall make its voluntary contribution to the United States Treasury by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200232100003 and FRN 0003-7665-32.

7. **IT IS FURTHER ORDERED** that the Commission investigation into the matter described herein **IS TERMINATED**.

8. **IT IS FURTHER ORDERED** that the Secretary **SHALL SIGN** the Consent Decree on behalf of the Commission.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dorch  
Secretary

**CONSENT DECREE**

The Federal Communications Commission ("FCC") and AT&T Wireless Services, Inc. ("AT&T Wireless") hereby enter into a Consent Decree resolving possible violations by AT&T Wireless of the E911 Phase II provisions of Section 20.18 of the Commission's Rules, 47 C.F.R. § 20.18.

**Statement of Facts**

1. Under Phase II of the FCC's wireless E911 rules, wireless carriers are required to provide to the designated Public Safety Answering Point ("PSAP") the location of wireless 911 callers, a capability known as Automatic Location Identification ("ALI"), using handset-based or network-based location technologies.<sup>3</sup> The rules provide that handset-based location technologies must provide the location of wireless 911 calls with an accuracy of 50 meters for 67 percent of calls and 150 meters for 95 percent of calls.<sup>4</sup> Carriers using a handset-based solution also must begin to offer one entry-level model with location capability no later than October 1, 2001, and must ensure that 95 percent of their customers have location-capable handsets no later than December 31, 2005.<sup>5</sup>

2. For carriers choosing a network-based solution, the rules provide that the technology must report the location of wireless 911 calls with an accuracy of 100 meters for 67 percent of calls and 300 meters for 95 percent of calls.<sup>6</sup> A carrier using a network-based solution must provide ALI to 50 percent of its coverage area, or 50 percent of its population, beginning on October 1, 2001 or within six months of a PSAP request, whichever is later, and to 100 percent of callers within 18 months of that request or by October 1, 2002, whichever is later. Wireless carriers subject to the rules were directed to report their Phase II plans, including the technologies they plan to use, by November 9, 2000.<sup>7</sup>

3. On November 9, 2000, AT&T Wireless filed its report on its plans for implementation of E911 Phase II service. In its report, AT&T Wireless stated that it was not in a position to choose between a handset and network overlay solution and that it would file an amended report. On December 6, 2000, AT&T Wireless filed an Amended E911 Phase II Report stating that it planned to implement a hybrid network and handset-based technology called Enhanced Observed Time Difference of Arrival ("E-OTD") across its Global System for Mobile Communications ("GSM")/General Packet Radio Service ("GPRS") network.<sup>8</sup> AT&T Wireless did not commit to the use of a particular Phase II technology with respect to its Time Division Multiple Access ("TDMA") network.<sup>9</sup>

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<sup>3</sup> See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996).

<sup>4</sup> 47 C.F.R. § 20.18(h)(2).

<sup>5</sup> 47 C.F.R. § 20.18(g).

<sup>6</sup> 47 C.F.R. § 20.18(h)(1).

<sup>7</sup> 47 C.F.R. § 20.18(i).

<sup>8</sup> AT&T Wireless Services, Inc. Amended E911 Phase II Report, at 7 (December 6, 2000).

<sup>9</sup> *Id.*

4. On April 4, 2001, AT&T Wireless requested a waiver of the E911 Phase II rules to permit it to deploy E-OTD throughout its GSM air interface network and a switch-based technology called Mobile-Assisted Network Location System ("MNLS") for its TDMA network.<sup>10</sup> AT&T Wireless supplemented its filing on May 31 and June 12, 2001, providing additional information on its plans for complying with Phase II requirements using MNLS. On June 13, 2001, AT&T Wireless personnel met with the staff of the FCC's Wireless Telecommunications Bureau ("WTB") to discuss MNLS. It provided additional data on field test results of network-based solutions for TDMA on July 2, July 10, and August 2, 2001. On July 23, 2001, AT&T Wireless's technical personnel participated in a conference call in which they answered questions regarding MNLS from staff of the WTB and the FCC's Office of Engineering ("OET"), and on July 27, 2001, AT&T Wireless met with WTB and OET staff to further discuss the waiver request. On August 6, 2001, AT&T Wireless submitted a written proposal for complying with Phase II requirements using MNLS, including specific milestones. A meeting to discuss this proposal and other aspects of the waiver request was held with WTB on August 30, 2001. On September 6, 2001, AT&T Wireless conducted a field demonstration of MNLS in Orlando, Florida, which WTB and OET staff observed on site. On September 17, 2001, AT&T Wireless filed a letter substantially amending its waiver request with respect to its TDMA network.<sup>11</sup> In lieu of implementing MNLS as its E911 Phase II solution for its TDMA network, AT&T Wireless sought permission to deploy either TruePosition's or Grayson Wireless's (Grayson's) network overlay technology. The WTB sought comments on the waiver and amended waiver requests.<sup>12</sup> The comment period on the amended waiver request closed on October 11, 2001. The amended waiver request regarding AT&T Wireless's TDMA network is pending. The Commission recently approved, with conditions, AT&T Wireless's request to deploy E-OTD throughout its GSM network.<sup>13</sup>

5. The Enforcement Bureau has begun an investigation into whether AT&T Wireless was in compliance with the E911 Phase II rules, 47 C.F.R. § 20.18, with respect to its TDMA or TDMA/Advanced Mobile Phone Service ("AMPS") network on or after October 1, 2001.

#### Terms of Settlement

6. For the purposes of this Consent Decree, the following definitions shall apply:

- (a) "FCC" or "Commission" means the Federal Communications Commission.
- (b) "Parties" means AT&T Wireless Services, Inc. and the Federal Communications Commission.

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<sup>10</sup> AT&T Wireless Services, Inc., Request for Waiver of the E911 Phase II Location Technology Implementation Rules, filed April 4, 2001.

<sup>11</sup> Letter from Douglas I. Brandon, Vice President – External Affairs & Law, AT&T Wireless Services, Inc. to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, CC Docket No. 94-102, filed September 17, 2001.

<sup>12</sup> *Public Notice*, "WTB Seeks Comment on Wireless E911 Phase II Waiver Request Filed By AT&T Wireless Services, Inc.," CC Docket No. 94-102, 16 FCC Rcd 7890 (WTB, 2001); *Public Notice*, "WTB Seeks Comment on Wireless E911 Phase II Waiver Request Filed by AT&T Wireless Services, Inc.," CC Docket No. 94-102, 16 FCC Rcd 16820 (WTB, 2001).

<sup>13</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Order, 16 FCC Rcd 18253 (2001).

- (c) "AT&T Wireless" means AT&T Wireless Services, Inc., its subsidiaries, and any successors or assigns.
- (d) "Adopting Order" means an order of the FCC adopting this Consent Decree.
- (e) "Effective Date" means the date on which the FCC releases the Adopting Order.
- (f) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.
- (g) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
- (h) "Valid PSAP Request" means a Public Safety Answering Point ("PSAP") request for Phase I or Phase II service as defined in the Commission's rules governing E911 and any orders of the Commission interpreting such rules.

7. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the FCC by incorporation of such provisions by reference in an Adopting Order.

8. The Parties agree that this Consent Decree shall become effective on the date on which the FCC releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission and any violation of any term of this Consent Decree shall constitute a violation of a Commission order entitling the FCC to exercise any and all rights and to seek any and all remedies authorized by law for the enforcement of a Commission order.

9. AT&T Wireless agrees that the FCC has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

10. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between AT&T Wireless and the FCC regarding possible violations of the E911 Phase II rules for its TDMA or TDMA/AMPS network with respect to the October 1, 2001 deadline. In consideration for termination by the Commission of its investigation into whether AT&T Wireless has violated the E911 Phase II rules for its TDMA or TDMA/AMPS network with respect to the October 1, 2001 deadline, and in accordance with the terms of this Consent Decree, AT&T Wireless agrees to the terms set forth herein.<sup>14</sup>

11. In express reliance on the covenants and representations in this Consent Decree, the FCC agrees to terminate its investigation without any finding of liability on the part of AT&T Wireless.

12. AT&T Wireless agrees to comply with the E911 Phase II rules modified as follows:

- (a) First, AT&T Wireless agrees:
  - (1) To deploy a Phase II compliant technology at a minimum of 1,000 cell sites by November 15, 2002.
  - (2) To deploy a Phase II compliant technology at a minimum of 2,000 cell sites and

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<sup>14</sup> Because AT&T Wireless represents that it expects to have no analog-only customers by the end of 2001, except for a relative handful of customers who are highly-resistant to migrating to digital service, on the basis of this representation, the Commission agrees not to investigate AT&T Wireless for possible violation of the E911 Phase II Rules for its analog-only network. See Partial Response of AT&T Wireless Services, Inc. to Order of the Wireless Telecommunications Bureau, CC Docket No. 94-102 at 3 (May 30, 2001).

provide Phase II service at all these sites by December 31, 2002.

(3) To deploy a Phase II compliant technology at a minimum of 4,000 cell sites and provide Phase II service at all these sites by June 30, 2003.

(4) To deploy a Phase II compliant technology at a minimum of 6,000 cell sites by December 31, 2003, if necessary to meet a PSAP request pending more than six months as of that date.

(5) To deploy a Phase II compliant technology at a minimum of 8,000 cell sites by June 30, 2004, if necessary to meet a PSAP request pending more than six months as of that date.

(6) For any valid PSAP requests for Phase II service on its TDMA or TDMA/AMPS network received by AT&T Wireless on or before February 28, 2002, AT&T Wireless must provide its Phase II compliant solution to 100% of those PSAPs' coverage areas or population by April 1, 2003.

(7) For valid PSAP requests received after February 28, 2002, but on or before September 30, 2002, AT&T Wireless must provide its Phase II compliant solution to 50% of those PSAPs' coverage areas or population by April 1, 2003, and to 100% of those PSAPs' coverage areas or population by November 30, 2003.

(8) For valid PSAP requests received after September 30, 2002, AT&T Wireless must provide its Phase II compliant service to 50% of those PSAPs' coverage areas or population within six months of receipt of such request and to 100% of those PSAPs' coverage areas or population within 15 months of receipt of a PSAP request.

(b) Second, AT&T Wireless agrees that its classification of a PSAP request as invalid will not insulate it from enforcement action if the Commission determines that the request was valid.

(c) Third, AT&T Wireless states that it is relying on vendor representations in agreeing to the deployment schedule set forth herein and for its belief that a network-based solution will satisfy the Commission's accuracy requirements.

(d) Fourth, AT&T Wireless represents that it has completed its Lucent switch upgrades by April 1, 2002, and agrees that it must complete all other switch upgrades by August 1, 2002.

(e) Fifth, AT&T Wireless agrees that in the event it fails to comply with any of the benchmarks set forth in paragraph 12(a)(1) through (5), it will make a voluntary contribution to the United States Treasury in the amount of \$300,000 for the first missed benchmark, \$600,000 for the second missed benchmark and \$1,200,000 for the third missed benchmark and any subsequently missed benchmarks. Any such voluntary contribution will be made within 30 days of the missed benchmark or within five business days of a Commission decision denying a request to modify the benchmark date, whichever is later, by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference

NAL/Acct. No. 200232100003, as well as AT&T Wireless's FCC Registration Number ("FRN") 0003-7665-32.

(f) Sixth, AT&T Wireless must file Quarterly Reports, on its progress and compliance with the terms and conditions of the Consent Decree and the wireless E911 rules, as set forth in paragraphs 13-16, *infra*.<sup>15</sup>

(g) Seventh, with its August 1, 2002 Quarterly Report, AT&T Wireless must submit a Phase II rollout plan describing how it will prioritize PSAP requests and deploy Phase II service in its TDMA and TDMA/AMPS network.

13. To assist in monitoring and enforcing each of the conditions imposed on AT&T Wireless, AT&T Wireless must file Quarterly Reports with the Chief of the Enforcement Bureau and the Chief of the Wireless Telecommunications Bureau.<sup>16</sup>

14. Specifically, the Quarterly Reports must include the following information:

(a) The Report must include information on all pending Phase I and Phase II requests in AT&T Wireless's TDMA and TDMA/AMPS network, including the name of the PSAP, the date the request was received by the carrier, whether or not AT&T Wireless considers it valid, and its status. To the extent any PSAP request for Phase II service in AT&T Wireless's TDMA or TDMA/AMPS network received after September 30, 2002 has been pending for more than six months, AT&T Wireless must identify the specific reasons underlying the failure to provide the requested service, the steps AT&T Wireless has taken to resolve the problems, and the anticipated date of full completion of the work necessary to deliver the requested information to the PSAP in question. If AT&T Wireless believes there are questions concerning a PSAP's compliance with the conditions necessary for a valid Phase I or II request, such as its readiness to receive and utilize Phase I or Phase II information, it should identify specifically the question and the efforts it has undertaken, including the communications it has had with the PSAP, to resolve the question. AT&T Wireless agrees to serve this report on the Association of Public-Safety Communications Officials-International, Inc., the National Emergency Number Association, and the National Association of State Nine One One Administrators.<sup>17</sup> In addition, the Commission will post this information on its website.<sup>18</sup> The Parties agree that the Wireless Telecommunications Bureau may require any additional steps necessary to ensure PSAP access to this information.

(b) Each Quarterly Report also must contain statements regarding whether AT&T Wireless has met each deployment benchmark and any other condition falling due in the period

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<sup>15</sup> These requirements are in addition to, and not in lieu of, the Quarterly Report requirements set forth in the October 12, 2001 order approving AT&T Wireless's compliance plan and waiver request for its GSM network. AT&T Wireless may, however, combine the information required with respect to its GSM network and its TDMA/AMPS networks into a single Quarterly Report.

<sup>16</sup> Each of the conditions imposed on AT&T Wireless as described in this Consent Decree pertains only to AT&T Wireless's TDMA and TDMA/AMPS network.

<sup>17</sup> AT&T Wireless should serve the Executive Director of each organization as well as its counsel, to the extent such counsel has been identified in the record in response to AT&T Wireless's request for relief.

<sup>18</sup> See <[www.fcc.gov/e911](http://www.fcc.gov/e911)>.

immediately preceding the Quarterly Report, and, if not, the reasons for its failure to comply. Each Quarterly Report must contain:

- (1) a statement of whether AT&T Wireless's Phase II service meets the Commission's network-based accuracy requirements of 100 meters for 67 percent of calls and 300 meters for 95 percent of calls;
- (2) for the August 1, 2002 benchmark, a statement of whether AT&T Wireless has completed its switch upgrades;
- (3) for the November 15, 2002 benchmark, a statement of whether AT&T Wireless has deployed a Phase II compliant technology at 1,000 cell sites;
- (4) for the December 31, 2002 benchmark, a statement of whether AT&T Wireless has deployed a Phase II compliant technology at 2,000 cell sites and whether AT&T Wireless is providing Phase II service at these sites;
- (5) for the April 1, 2003 benchmarks, statements of whether: (i) for any valid PSAP requests for Phase II service on its TDMA or TDMA/AMPS network received by AT&T Wireless on or before February 28, 2002, AT&T Wireless has provided its Phase II compliant solution to 100% of those PSAPs' coverage areas or population; and (ii) for any valid PSAP requests for Phase II service on its TDMA or TDMA/AMPS network received by AT&T Wireless after February 28, 2002, but on or before September 30, 2002, AT&T Wireless has provided its Phase II compliant solution to 50% of those PSAPs' coverage areas or population;
- (6) for the June 30, 2003 benchmark, a statement of whether AT&T Wireless has deployed a compliant Phase II technology at 4,000 cell sites;
- (7) for the November 30, 2003 benchmark, a statement of whether, for any valid PSAP requests for Phase II service on its TDMA or TDMA/AMPS network received by AT&T Wireless after February 28, 2002, but on or before September 30, 2002, AT&T Wireless has provided its Phase II compliant solution to 100% of those PSAPs' coverage areas or population;
- (8) for the December 31, 2003 benchmark, a statement of whether AT&T Wireless has deployed a compliant Phase II technology at 6,000 cell sites;
- (9) for the June 30, 2004 benchmark, a statement of whether AT&T Wireless has deployed a compliant Phase II technology at 8,000 cell sites; and
- (10) for any valid PSAP request received after September 30, 2002, a statement of whether AT&T Wireless has provided its Phase II compliant service to 50% of those PSAPs' coverage areas or population within six months of receipt of the request and to 100% of those PSAPs' coverage areas or population within 15 months of receipt of the request.



(c) AT&T Wireless must support each Quarterly Report with an affidavit, from an officer or director of AT&T Wireless, attesting to the truth and accuracy of the report.<sup>19</sup>

(d) To the extent AT&T Wireless anticipates that it will fail to satisfy any one of the conditions, it must advise the Commission of the problem. Seeking relief from that condition will not insulate AT&T Wireless from possible enforcement in cases where AT&T Wireless has violated a condition of this Consent Decree. AT&T Wireless agrees that the Commission will not entertain requests for additional relief that seek changes in the conditions of this Consent Decree absent extraordinary circumstances.

(e) To the extent that AT&T Wireless cannot provide the information required under this paragraph in its next Quarterly Report following the respective benchmark, it must file with the Chief, Enforcement Bureau, a request for extension of time to file the required information. Such request must be filed as early as possible before the Quarterly Report filing date, but not later than 10 business days prior to the Quarterly Report filing date. The request must specify the reasons for the request.

(f) AT&T Wireless's Quarterly Reports are due February 1, May 1, August 1, and November 1 of each year, beginning August 1, 2002 and continuing through February 1, 2006. To the extent that AT&T Wireless cannot provide any of the information filed in its final report, it must file with the Chief, Enforcement Bureau, a request for extension of time to file the required information in accordance with the procedures set forth above.

15. The Parties agree that the Chiefs of the Wireless Telecommunications Bureau and the Enforcement Bureau may require AT&T Wireless to provide additional information in its Quarterly Reports, in order to evaluate AT&T Wireless's compliance with the terms and conditions of the Consent Decree, and its progress in deploying Phase I and Phase II E911 services.

16. To the extent unexpected problems arise affecting AT&T Wireless's ability to perform any of the requirements set forth in paragraph 12(a) in the period between reports, AT&T Wireless agrees to notify the Commission through a supplementary filing to be filed within 30 days of AT&T Wireless's discovery of the problem. This supplemental filing must include specific details regarding the problems AT&T Wireless has encountered affecting its ability to comply with the benchmark requirements.

17. AT&T Wireless agrees that it is required to comply with each individual condition of this Consent Decree, including the reporting requirements set forth above. Each specific condition and Quarterly Report is a separate condition of the Consent Decree as approved. In addition, AT&T Wireless remains subject to all other requirements of the Commission's wireless E911 rules apart from those specifically modified in this Consent Decree, and ultimately responsible for providing timely, compliant Phase II service. To the extent that AT&T Wireless fails to satisfy any condition or Commission rule, in the absence of Commission alteration of the condition or rule, it will be deemed noncompliant and referred to the Commission's Enforcement Bureau for possible action, including but not limited to revocation of the relief, a requirement to deploy an alternative ALI technology, letters of admonishment

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<sup>19</sup> See 47 C.F.R. § 1.16. As required by Section 20.18(h)(1) of the Commission's Rules, AT&T Wireless's network-based technology for delivering E911 Phase II location information must meet the following standards for location accuracy: 100 meters for 67 percent of calls, 300 meters for 95 percent of calls. AT&T Wireless will derive its network-wide location accuracy by selecting the 67 percent and 95 percent accuracy numbers from a set of test data weighted in accordance with OET Bulletin No. 71, Guidelines for Testing and Verifying the Accuracy of Wireless E911 Location Systems, Apr. 12, 2000.

or forfeitures. At that time, an assertion that a vendor, manufacturer or other entity was unable to supply compliant products will not excuse noncompliance. However, AT&T Wireless's "concrete and timely" actions taken with a vendor, manufacturer or other entity may be considered as possible mitigation factors in such an enforcement context. To the extent that the Commission, in response to petitions for reconsideration pending in *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request for Waiver by Nextel Communications, Inc.*, 16 FCC Rcd 18277 (2001), *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request for Waiver by Cingular Wireless LLC*, 16 FCC Rcd 18305 (2001), or *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request for Waiver by Verizon Wireless*, 16 FCC Rcd 18364 (2001), or in connection with any court order on review of those proceedings, imposes a standard regarding compliance and enforcement action that is different than set forth in this Consent Decree, that subsequent standard shall apply.

18. AT&T Wireless agrees to make a voluntary contribution to the United States Treasury in the amount of One Hundred Thousand Dollars (\$100,000) within thirty (30) days after the effective date of the Adopting Order. AT&T Wireless will make this contribution without further protest or recourse by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200232100003 and FRN 0003-7665-32.

19. The FCC agrees that it will not institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against AT&T Wireless for violation of the E911 Phase II rules for its TDMA or TDMA/AMPS network except as consistent with the provisions of this Consent Decree. The FCC also agrees that, in the absence of material new evidence related to this matter, it will not use the facts developed in this proceeding through the effective date of this Consent Decree or the existence of this Consent Decree to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against AT&T Wireless with respect to its basic qualifications, including the character qualifications, to be a Commission licensee. Nothing in this Consent Decree shall prevent the FCC from instituting new investigations or enforcement proceedings against AT&T Wireless pursuant to Sections 4(i), 403 and 503 of the Act, 47 U.S.C. §§ 4(i), 403 and 503, in the event of any alleged future misconduct, for violation of this Consent Decree, or for violation of the E911 Phase II rules consistent with the provisions of this Consent Decree.

20. Nothing in this Consent Decree shall prevent the FCC from adjudicating complaints filed pursuant to Section 208 of the Act, 47 U.S.C. § 208, against AT&T Wireless or its subsidiaries for alleged violations of Section 20.18 of the Rules as modified by this Consent Decree, or for any other type of alleged misconduct, regardless of when such misconduct took place. If any such complaint is made, the FCC's adjudication of that complaint will be based solely on the record developed in that proceeding.

21. AT&T Wireless waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Adopting Order adopts the Consent Decree without change, addition or modification.

22. If either Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Adopting Order, neither AT&T Wireless nor the FCC shall contest the validity of the Consent Decree or Adopting Order, and AT&T Wireless and the FCC shall waive any statutory right to a trial *de novo* with respect to any matter upon which the Adopting Order is based and shall consent to a judgment incorporating the terms of this Consent Decree.

23. AT&T Wireless agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

24. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

25. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act and the Rules, including Section 20.18 of the Rules. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, AT&T Wireless does not admit any liability for violating Commission rules in connection with the matters that are the subject of this Consent Decree.

26. The Parties agree that any provision of the Consent Decree that would require AT&T Wireless to act in violation of a future rule or order adopted by the Commission will be superseded by such Commission rule or order. In this regard, the Parties agree that any Commission rule or order that is more stringent than any provision of the Consent Decree supersedes such provision of the Consent Decree.

27. This Consent Decree may be signed in counterparts.

For the Federal Communications Commission

For AT&T Wireless Services, Inc.

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Marlene H. Dortch  
Secretary

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Douglas I. Brandon  
Vice President, External Affairs & Law

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Date

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Date